

BEFORE THE BOARD OF ALTERNATIVE HEALTH CARE  
DEPARTMENT OF LABOR AND INDUSTRY  
STATE OF MONTANA

In the matter of the proposed adoption of ) NOTICE OF PUBLIC HEARING  
NEW RULE I fee abatement and NEW ) ON PROPOSED ADOPTION  
RULE II license renewal for activated )  
military reservists )

TO: All Concerned Persons

1. On April 13, 2006, at 9:30 a.m., a public hearing will be held in room B-07, Park Avenue Building, 301 South Park Avenue, Helena, Montana to consider the proposed adoption of the above-stated rules.

2. The Department of Labor and Industry will make reasonable accommodations for persons with disabilities who wish to participate in the public hearing or need an alternative accessible format of this notice. If you require an accommodation, contact the Board of Alternative Health Care no later than 5:00 p.m., on April 7, 2006, to advise us of the nature of the accommodation that you need. Please contact Cheryl Brandt, Board of Alternative Health Care, 301 South Park Avenue, P.O. Box 200513, Helena, Montana 59620-0513; telephone (406) 841-2394; Montana Relay 1-800-253-4091; TDD (406) 444-2978; facsimile (406) 841-2305; e-mail dlibsdahc@mt.gov.

3. The board proposes to adopt the following rules:

NEW RULE I FEE ABATEMENT (1) The Board of Alternative Health Care adopts and incorporates by reference the fee abatement rule of the Department of Labor and Industry found at ARM 24.101.301.

AUTH: 37-1-101, 37-26-201, 37-27-105, MCA  
IMP: 17-2-302, 17-2-303, 37-1-134, MCA

REASON: The board has determined there is reasonable necessity to adopt New Rule I and incorporate by reference ARM 24.101.301 to allow the board to authorize the department to perform renewal licensure fee abatements as appropriate and when needed, without further vote or action by the board. The department recently adopted ARM 24.101.301 to implement a means for the prompt elimination of excess cash accumulations in the licensing programs operated by the department.

Adoption and incorporation of ARM 24.101.301 will allow the department to promptly eliminate excess cash balances of the board that result from unexpectedly high licensing levels or other nontypical events. Abatement in such instances will allow the licensees who have paid fees into the board's program to receive the temporary relief provided by abatement. Adoption of this abatement rule does not relieve the board from its duty to use proper rulemaking procedures to adjust the board's fee

structure in the event of recurrent instances of cash balances in excess of the statutorily allowed amount.

**NEW RULE II LICENSE RENEWAL FOR ACTIVATED MILITARY RESERVISTS** (1) When a licensee is called to federal active duty status:

(a) a license may be renewed using the existing renewal process; or  
(b) license renewal may be deferred pursuant to 37-1-138, MCA provided that the licensee is not required by the military to maintain current professional or occupational licensing as a condition of the reservist's military service.

(2) If maintaining a current license while in federal active duty status is not a requirement for the reservist's military service, the licensee may defer renewing the license and fulfilling continuing education requirements by submitting to the board:

(a) a deferral request; and

(b) a copy of the reservist's orders to federal active duty status.

(3) Compliance with rules relating to continuing education and renewal fees is not required of reservists who have requested deferral pursuant to this rule for so long as they remain on active duty status. When renewing a license pursuant to this rule after being released from active duty status, a reservist who was activated for more than two years may be required by the board to first obtain such continuing education credits as the board deems appropriate for the protection of the public taking into account the factors set out in 37-1-138, MCA.

(4) A reservist who is required by these rules or by statute to have current CPR certification and/or neonatal resuscitation certification as a condition of licensure or renewal must present evidence of current certification at the time of renewing a license following release from federal active duty status regardless of the duration of the activated status.

(5) If a license renewal has been deferred pursuant to this rule during a reservist's federal active duty status, said license must be renewed within 90 days of the reservist's discharge from active duty or else the license will expire as provided in 37-1-141, MCA.

(6) In order to renew a license following deferment pursuant to this rule, the reservist must submit to the board the following:

(a) a completed application for renewal together with any documents regularly required for renewal except as otherwise provided herein;

(b) a prorated renewal fee for the current renewal period; and

(c) a copy of the document discharging the reservist from federal active duty status.

(7) Deferring renewal pursuant to this rule will continue the license in the same status (e.g., clear, probationary, suspended) as existed the day before the licensee was called to federal active duty status for the duration of the activation and until the license is either renewed following discharge from active duty or until the license expires, whichever occurs first.

AUTH: 37-26-201, 37-27-105, MCA

IMP: 37-1-138, MCA

**REASON:** It is reasonable and necessary to adopt this rule in order to implement

the requirements of 37-1-138, MCA.

4. Concerned persons may present their data, views, or arguments either orally or in writing at the hearing. Written data, views, or arguments may also be submitted to the Board of Alternative Health Care, 301 South Park Avenue, P.O. Box 200513, Helena, Montana 59620-0513, by facsimile to (406) 841-2305, or by e-mail to [dlibsdahc@mt.gov](mailto:dlibsdahc@mt.gov), and must be received no later than 5:00 p.m., April 21, 2006.

5. An electronic copy of this Notice of Public Hearing is available through the department and board's site on the World Wide Web at [www.althealth.mt.gov](http://www.althealth.mt.gov). The department strives to make the electronic copy of this Notice of Public Hearing conform to the official version of the Notice, as printed in the Montana Administrative Register, but advises all concerned persons that in the event of a discrepancy between the official printed text of the Notice and the electronic version of the Notice, only the official printed text will be considered. In addition, although the department strives to keep its website accessible at all times, concerned persons should be aware that the website may be unavailable during some periods, due to system maintenance or technical problems, and that a person's technical difficulties in accessing or posting to the e-mail address do not excuse late submission of comments.

6. The Board of Alternative Health Care maintains a list of interested persons who wish to receive notices of rulemaking actions proposed by this board. Persons who wish to have their name added to the list shall make a written request, which includes the name and mailing address of the person to receive notices and specifies that the person wishes to receive notices regarding all Board of Alternative Health Care administrative rulemaking proceedings or other administrative proceedings. Such written request may be mailed or delivered to the Board of Alternative Health Care, 301 South Park Avenue, P.O. Box 200513, Helena, Montana 59620-0513, faxed to the office at (406) 841-2305, e-mailed to [dlibsdahc@mt.gov](mailto:dlibsdahc@mt.gov), or may be made by completing a request form at any rules hearing held by the agency.

7. The bill sponsor notice requirements of 2-4-302, MCA, apply and have been fulfilled.

8. Lorraine Schneider, attorney, has been designated to preside over and conduct this hearing.

BOARD OF ALTERNATIVE HEALTH CARE

Michael Bergkamp, ND, Chairperson

/s/ MARK CADWALLADER

Mark Cadwallader  
Alternate Rule Reviewer

/s/ KEITH KELLY

Keith Kelly, Commissioner  
DEPARTMENT OF LABOR AND INDUSTRY

Certified to the Secretary of State March 13, 2006